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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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11 SCOTT MICHAEL HARA,  
12 Petitioner,

No. C 04-04810 JSW

13 v.

14 SANTA CLARA SUPERIOR COURT AT SAN  
15 JOSE, and BILL LOCKYER, Attorney General  
16 of California,

**ORDER DENYING REQUEST  
FOR CERTIFICATE OF  
APPEALABILITY AND MOTION TO  
STAY STATE COURT JUDGMENT**

16 Respondent.  
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19 This is a habeas case under 28 U.S.C. § 2254 filed by Petitioner Scott Michael Hara  
20 regarding his August 2003 conviction for driving under the influence. The petition was denied on  
21 the basis that the Petitioner failed to show any violation of his federal constitutional rights in the  
22 underlying state criminal proceedings. Petitioner has filed notice of appeal and a request for a  
23 certificate of appealability. Petitioner has also filed a motion to stay the state court judgment  
24 pending appeal of this Court's order denying his petition.  
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26 A petitioner may not appeal a final order in a federal habeas corpus proceeding without first  
27 obtaining a certificate of appealability (formerly known as a certificate of probable cause to appeal).  
28 See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A judge shall grant a certificate of appealability

1 “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28  
 2 U.S.C. § 2253(c)(2). The certificate must indicate which issues satisfy this standard. 28 U.S.C. §  
 3 2253(c)(3). “Where a district court has rejected the constitutional claims on the merits the showing  
 4 required to satisfy § 2253(c) is straightforward: the petitioner must demonstrate that reasonable  
 5 jurists would find the district court’s assessment of the constitutional claims debatable or wrong.”  
 6 *Slack v. McDaniel*, 120 S.Ct. 1595, 1604 (2000).

7 For the reasons discussed in the order denying the petition, Petitioner has not shown that  
 8 reasonable jurists would disagree that the claims in his petition are without merit. Accordingly, the  
 9 application for certificate of appealability is DENIED. The Court FURTHER ORDERS that  
 10 Petitioner’s motion to stay the state court judgment pending appeal of this Court’s denial of his  
 11 petition is DENIED.

12 **IT IS SO ORDERED.**

13 Dated: May 1, 2006

  
 14 JEFFREY S. WHITE  
 15 UNITED STATES DISTRICT JUDGE  
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